**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

| |
|---|
| *In the Matter of*<br><br>Petition of General Communication, Inc. for Waiver of Lower 700 MHz Band Interim and End-of-Term Geographic Construction Benchmarks for Alaska A-Block License WQJU656 |



**PETITION OF GENERAL COMMUNICATION, INC. FOR WAIVER OF LOWER 700 MHZ BUILD-OUT REQUIREMENTS**

The Alaska Wireless Network, LLC ("AWN"), a Tier III wireless carrier that is a wholly-owned subsidiary of GCI Communication Corp. ("GCI"), currently holds a Lower 700 MHz spectrum license covering BEA171—Anchorage, AK, with call sign WQJU656.

On December 2, AT&T Services, Inc. filed a letter requesting to amend its Petition to waive the build-out requirements that apply to its Lower 700 MHz license in Alaska, in light of the unique issue facing Alaskan operations and construction. GCI writes today to request that the Commission amend AWN's build-out requirements in a similar manner. Like AT&T, GCI is working to deploy 700 MHz wireless service in the challenging Alaska market.[1] And like AT&T, GCI has recently urged the Commission to avoid harming consumers by rigidly applying its Lower 700 MHz geographic build-out rules in Alaska, where harsh conditions and extremely low

[1] *See generally* Petition for Waiver of AT&T Services, Inc., WT Docket No. 16-335 (filed Oct. 11, 2016) ("AT&T Petition").

population densities make these deadlines inappropriate.[2] GCI agrees with AT&T's assessment of the challenges of meeting the Commission's geographic build-out deadlines in Alaska.[3] Indeed, rigid application of the rules will burden GCI even more than AT&T, as it would require GCI to cover 35% and then 70% of non-government lands in the entire state of Alaska, not just a single CMA—a plainly infeasible goal. Accordingly, GCI supports AT&T's request, and requests a waiver of the geographic coverage construction benchmarks specified in Commission Rule Sections 1.946(b) and (c) and 27.14(g) for its Lower 700 MHz A-Block spectrum license to allow it to focus on populated areas of the state.

GCI's request largely mirrors AT&T's request, as modified by its December 2, 2016 letter.[4] In fact, GCI commits to an even greater build-out investment, and such a commitment would result in coverage to more of Alaska and to more Alaskans. AT&T has committed to covering 70% of a single CMA by December 13, 2016, representing approximately 102,147 Alaskans. GCI will commit to cover at least 50% of the entire state of Alaska, representing more than 350,000 Alaskans. Consequently, GCI will cover more than three times as many people by December 13. GCI will also cover 80% of the population of the entire state of Alaska by June 13, 2019—almost five times the population that would be covered under AT&T's requested waiver, in the same period of time—and continue to meet this coverage benchmark for at least another five years. GCI also proposes terms identical to those proposed by AT&T in the event that GCI is unable to meet the milestones described below, and which require GCI to negotiate in good faith with any third party seeking to lease spectrum in unserved areas during the renewal period.

---

2 *See* Reply Comments of General Communication, Inc., WT Docket No. 16-335 (filed Nov. 15, 2016).

3 *See* AT&T Petition at 1-3, 5-9.

4 Letter from Celia Nogales, AVP, Federal Regulatory, AT&T, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 16-335 (filed Dec. 2, 2016).

## I. GCI Has Already Begun an Aggressive Build-Out Campaign, Despite Significant Challenges

As the Commission knows, it is extremely difficult to provide wireless coverage—or, indeed, any other form of terrestrial telecommunications service—in rural Alaska. But in the case of the Commission's Lower 700 MHz geographic build-out requirements,[5] this challenge is compounded by the vast tracts of unpopulated land that cover most of Alaska. These realities make it virtually impossible for any statewide licensee in Alaska to meet the Commission's construction deadlines, if these rules are rigidly applied without regard for Alaska's unique challenges. Compliance could require a licensee to cover unpopulated areas larger in size than many entire states in the continental United States, and limit licensees' ability to devote resources to covering rural areas where people live. In fact, due to the sharp imbalance between populated and unpopulated lands in Alaska, an overly rigid interpretation of the geographic coverage rule may require licensees to *prioritize* coverage of large, unpopulated areas above populated, but geographically smaller, rural areas.

GCI acquired its Lower 700 MHz A-Block license in a transaction with T-Mobile License LLC that closed in the summer of 2016. The Commission approved assignment of the license six months ago, on June 22, 2016. T-Mobile, and previous licensees, had not begun any construction in Alaska, leaving GCI with the difficult task of meeting the Commission's interim 35% coverage deadline in only a few short months.[6] GCI's rapid progress towards meeting that deadline under Alaska's uniquely challenging construction conditions is a testament to its dedication to providing coverage throughout Alaska. But it is simply not feasible for GCI, or any

---

5 47 C.F.R. § 27.14(g).

6 *Id.*

other licensee, to cover 35% of Alaska's non-government lands, most of which are entirely unpopulated—much less in only six months' time.

If GCI does not meet that interim deadline, the Commission's rules would shorten GCI's license term by two years and, accordingly, accelerate the final, 70% end-of-term construction deadline.[7] If GCI is unable to meet *that* deadline, the license will terminate automatically in unserved areas and become available for reassignment by the Commission.[8] During the first 30 days after the Commission makes these licenses available for relicensing, GCI would be barred from reapplying to serve these areas, raising the possibility that a competitor or speculator could acquire this spectrum, undermining GCI's investment in nearby rural areas.[9] Indeed, this extremely rural spectrum will likely only be valuable to speculators who will then seek to transfer this spectrum back to GCI on the secondary market when the company is able to continue its buildout.

Acquiring the 700 MHz license in June 2016 provided GCI with an important tool to advance its effort to bring wireless service to remote areas of Alaska. This license will allow GCI to reach more Alaskans at lower cost, to expand its current coverage radii around many rural communities, and to improve indoor coverage. Deployment of the spectrum will enhance GCI's ability to cover remote areas more effectively, especially in underserved and rural communities where those national carriers do not have service.

The 700 MHz license will help GCI address the two greatest challenges in bringing mobile voice and broadband data services to Alaskans. First, Alaska is this country's largest state, with a vast territory and numerous small, far-flung communities. According to 2010 U.S.

---

7 *Id.*

8 *Id.* § 27.14(g)(2).

9 *Id.* § 27.14(j)(1).

census data, Alaska has the lowest population density, ranking 52nd out of 52 states and territories (ranking includes Puerto Rico and the District of Columbia), with only 1.2 people per square mile statewide.[10] In contrast, the second least dense state, Wyoming, is nearly 5 times denser, with a statewide population density of 5.8 people per square mile. This translates into steeper build-out costs for carriers that seek to serve Alaskans—especially rural Alaskans—and, thus, higher costs for Alaskan consumers. This dynamic also threatens to magnify the existing digital divide between rural Alaskans and those living in metropolitan Alaskan areas. Second, the already challenging build-out conditions are exacerbated by the extreme Alaskan weather, which significantly limits construction to a few months each year. Greater access to 700 MHz spectrum, however, will help GCI overcome these challenges by allowing it to provide service to more Alaskans, without a proportional increase in physical infrastructure. Moreover, this expanded coverage will not only benefit the Alaskans within that coverage area, but also benefit all Alaskans by extending the reach of public safety communications.

In addition, because of GCI's longstanding familiarity with the unique demands of the Alaskan marketplace and environment, its experience with Alaskan construction, and its understanding of the needs of Alaskans, GCI is uniquely positioned to maximize use of this spectrum. GCI has developed a build-out plan to bring this spectrum to as many Alaskans as possible, ensuring that the special benefits of this spectrum for the Alaskan market can be fully realized.

By the end of this year, GCI expects to have deployed new 700 MHz coverage in portions of Anchorage, Eagle River, the Matanuska-Susitna Valley, Kenai-Soldotna, and the

---

[10] Resident Population Data, U.S. CENSUS BUREAU, http://www.census.gov/2010census/data/apportionment-dens-text.php.

Prudhoe Bay Oilfield. GCI also currently has projects underway and expects by early next year to complete construction in Fairbanks, Juneau, Kodiak, Ketchikan, Girdwood, Nome, Sitka and Wrangell. GCI also expects to have completed early next year a significant new project to overlay 700 MHz LTE coverage on top of existing service in the Kenai Peninsula to significantly increase capacity and improve coverage.

GCI intends to continue with this aggressive pace of construction. In just the 2017 construction season (which, in Alaska, is only 3-4 short months), GCI expects to add coverage in Dutch Harbor, Barrow, Valdez, Petersburg, and Haines. However, even at this pace, it will not be feasible to cover 35% of all non-government land in Alaska in the foreseeable future. Alaska is simply too large and unpopulated for this to be a reasonable and achievable goal. And, unfortunately, the prospect that GCI may need to return unconstructed license areas, despite these build-out efforts, is already restricting GCI's ability to plan longer-term construction in especially rural areas.

## II. Rigid Application of the Geographic Build-Out Rule in Alaska Will Erect Yet Another Barrier to Rural Coverage in Alaska

Rigid application of the Lower 700 MHz build-out rules in Alaska would, as explained above, render it virtually impossible for statewide licensees, and licensees of rural Alaska CMAs, to meet their build-out deadlines. In the absence of some form of relief, this means that, with the possible exception of licensees in the most densely populated Alaska CMAs, all of Alaska will become a keep-what-you-use state: licensees' deadlines will be accelerated when they fail to meet the coming December 2016 interim deadline, with unserved areas reverting to the

Commission when that final deadline arrives.[11] Due to the economics of providing wireless coverage, these unserved areas are likely to be the same rural areas that the Commission's build-out rule sought to benefit.

First, licensees will be forced to act conservatively in planning the non-radiofrequency elements of their network such as backhaul capacity. Because these investment decisions are driven by the eventual area to be covered, and wireless capacity to be deployed in that area, licensees will seek to minimize such expenditures to support spectrum to which they may no longer have access after the build-out deadline passes. Because this uncertainty will disproportionately affect coverage in rural areas, it is rural areas that licensees may choose not to serve in an effort to avoid stranding network investments. The fact that the Commission's rules bar the original licensee from reapplying for lost spectrum during the initial filing window[12] only serves to increase this uncertainty.

Second, because licensees are more likely to cover more urban areas than rural before the build-out deadline, the spectrum reclaimed by the Commission under the keep-what-you-use rules will be overwhelmingly rural. Thus, when the Commission makes it available for relicensing, a new licensee will only be able to obtain rural spectrum, limiting its ability to use a profitable build-out in an urban area to finance less profitable build-outs in rural areas. Thus, this reclaimed rural spectrum, standing alone and separated from any urban areas, will present a less attractive opportunity for investment than it did when it was initially auctioned. This will result in even less rural deployment than the original licensee would have undertaken. It may also create the likelihood that speculators will seek to acquire the reclaimed spectrum only to resell it

---

[11] 47 C.F.R. § 27.14(g)(2).

[12] *Id.* § 27.14(j)(1).

to the original licensee (or a competitor). This highly inefficient outcome would also harm rural consumers by delaying the delivery of service to rural communities and increasing costs for the operators that seek to serve them, all with no corresponding benefit.

## III. Waiver Request

Waiver of the geographic coverage area benchmarks is the best way to advance the Commission's goal of incentivizing investment to build out the 700 MHz band. The requested waiver would commit GCI to an aggressive program that focuses resources on covering rural, but populated, portions of the state—many of which desperately need greater access to wireless broadband. Rigid application of the existing infeasible geographic targets, achievement of which are impossible in the Alaskan context, would result in fewer Alaskans gaining coverage because GCI would lose the ability to invest in the band in new areas. But, if the FCC grants the waiver requested herein, GCI would commit to covering 50% of the population of the entire State of Alaska by December 13, 2016, and then to cover 80% of Alaska's population by June 13, 2019. GCI would further commit to continue serving 80% of Alaska's population for an additional five years beyond December 16, 2018.

In addition, mirroring AT&T's request, GCI proposes that, in the event that its waiver request is granted, but it is unable to cover 80% of Alaska's population by June 13, 2019, or is not able to maintain this level of coverage for five years thereafter, GCI would lose authorization to serve geographic areas that GCI was not able to serve by June 13, 2017.

During any renewal term, GCI will negotiate in good faith with any third party seeking to lease spectrum in unserved areas. Good faith negotiations would include, among other things and by way of example only, terms providing for reasonable market-based lease rates, term periods, and build requirements similar to those proposed in this docket and in Commission Rule Section

27.14(g). Failure to meet this commitment would require a finding by the Commission and could subject GCI to loss of authorization to serve the unserved areas as of the date of the finding.

Under the Commission's rules, waiver is appropriate if either:

> **(i)** The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or
>
> **(ii)** In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.[13]

GCI's requested waiver would be appropriate under both prongs of this standard. Mechanical application of the rule would actually discourage rural deployment of Lower 700 MHz spectrum, frustrating the underlying purpose of the rule.[14] Likewise, due to Alaska's unique conditions, geography, and demographics, the geographic build-out requirements would be unduly burdensome and contrary to the public interest by effectively requiring statewide licensees in Alaska, and certain licensees in smaller areas, to cover huge areas entirely devoid of potential human users, at enormous expense. Indeed, as GCI has explained, this approach would require GCI to cover significantly more unpopulated land than populated.[15]

GCI's population-coverage commitments will ensure that more Alaskans enjoy the benefits of 700 MHz wireless coverage than they would have under the Commission's existing geographic build-out rules, which would have forced GCI to divert resources to covering unpopulated areas. Indeed, these population coverage commitments would cover more people than would be required under the population-based coverage requirement that applies to other

---

[13] *Id.* § 1.925(b)(3).

[14] *See supra* 6-7.

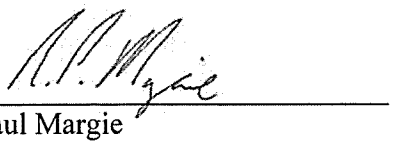
[15] *See supra* 3.

700 MHz licenses, which the Commission observed "is appropriate for licensees with large geographic areas to allow for roll out of advanced services."[16] While these population-based build-out targets apply to REAG-based licenses under the Commission's existing rules, GCI notes that its license area, BEA171, is actually coextensive with REAG7.

## IV. Conclusion

The Commission's rules, despite their laudable objective of encouraging expanded rural coverage, simply do not accomplish that goal in Alaska and are not feasible for a statewide Alaska license like that held by GCI. To meet the Commission's rural coverage goal in Alaska, Alaskan licensees need the flexibility to prioritize rural, but populated areas, instead of requiring them to build out more unpopulated areas than populated. Accordingly, the Commission should waive the existing geographic build-out requirements in favor of the aggressive population-coverage commitments described above.

Respectfully submitted,



Chris Nierman
*Senior Counsel, Federal Affairs*
Kara Leibin Azocar
*Regulatory Counsel, Federal Affairs*
**GCI Communication, Inc.**
1900 L St., NW, Suite 700
Washington, D.C. 20036

Paul Margie
Paul Caritj
**HARRIS, WILTSHIRE & GRANNIS LLP**
1919 M Street NW, 8th Floor
Washington, D.C. 20036
(202) 730-1300
*Counsel for GCI Communication, Inc.*

December 7, 2016

[16] *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands et al.*, Second Report and Order, FCC 07-132, 22 FCC Rcd. 15,289, 15,351 ¶ 164 (2007).